

1 adjudication of habeas cases. *Harris v. Nelson*, 394 U.S. 286, 299 (1969). Accordingly, neither the
2 Habeas Corpus Rules nor the Federal Rules of Civil Procedure provide compelling grounds to grant
3 respondents' motion.

4 Respondents also claim that, by including his request for an evidentiary hearing within his
5 reply, Adams has effectively deprived the respondents of the opportunity to oppose the request
6 without first obtaining permission from this court. Respondents appear to have overlooked the
7 scheduling order that, despite having been entered back in May of 1999, still governs these
8 proceedings. Docket #21. That order provides the respondents with the opportunity to file a
9 response to both Adams's reply¹ and his request for an evidentiary hearing. *Id.*, p. 2. And, while the
10 order also provides that a request for an evidentiary hearing be filed as separate motion concurrent
11 with the traverse, this court sees little point to adding further delay to these proceeding by requiring
12 Adams to formulate his request into a separate filing.

13 **IT IS THEREFORE ORDERED** that respondents' motion to strike (docket #227) is
14 DENIED.

15 DATED: January 29, 2009

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UNITED STATES DISTRICT JUDGE

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¹ Until recently, the petitioner's response to the respondent's answer was commonly referred to
25 as a "traverse." In 2004, Rule 5 of the Habeas Corpus Rules was amended so that the rule now uses the
26 more general term "reply." See Advisory Committee Notes to Rule 5, Habeas Corpus Rules. This court
used the term "traverse" in the 1999 scheduling order.